

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6350**

**BILL NUMBER:** HB 1110

**NOTE PREPARED:** Mar 23, 2006

**BILL AMENDED:** Mar 14, 2006

**SUBJECT:** Recycling of Mercury Components in Motor Vehicles.

**FIRST AUTHOR:** Rep. Brown T

**FIRST SPONSOR:** Sen. Gard

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Plans to Recycle Mercury Switches:* This bill requires a manufacturer of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end-of-life vehicles. It exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles. The bill requires the Indiana Department of Environmental Management (IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days. It requires motor vehicle recyclers to remove all mercury switches from end-of-life vehicles. It provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrapyards, hulk crushers, scrap metal processors, and vehicle disposal facilities. The bill provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect. The bill requires IDEM to report information on mercury switch removal to the Legislative Council and the Environmental Quality Service Council (EQSC).

*Payment for Mercury Switches:* The bill also provides for a payment out of the Solid Waste Management Fund (SWMF) to a motor vehicle recycler for each mercury switch removed (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and (2) to the extent that the commissioner makes money available from the SWMF for that purpose. The bill allows money to be redirected to the SWMF for that purpose from the Indiana Recycling Promotion and Assistance Fund (IRPAF) and the Environmental Management Special Fund (EMSF). The bill allows any person to contribute or assign assets to the Solid Waste Management Fund to be used by IDEM to make payments for mercury switches.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Plans to Recycle Mercury Switches:* This bill requires the IDEM to review plans submitted by manufacturers of motor vehicles engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana. The manufacturers must submit plans for, among other provisions, the removal, collection, recovery, and recycling or disposal of mercury switches from end-of-life vehicles. The plan must be submitted before October 1, 2006. The IDEM commissioner must not more than 30 days after receiving a plan issue a public notice. The public may submit written comments. Not more than 120 days after receiving the plan, the commissioner must determine whether the plan complies with the provisions of the bill. If necessary, the commissioner must review revised plans. No more than 240 days after receiving a plan, the commissioner on behalf of the manufacturer must complete any part of the plan that has not yet been approved. After the plan has been approved, the commissioner must review the plan three years after the original date of approval and every three years thereafter. IDEM must investigate violations. The bill provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect. IDEM must also report information on mercury switch removal to the Legislative Council and the EQSC.

The impact of the above provisions will depend on the number of plans submitted. Costs associated with review, inspection, and enforcement for 12 plans are estimated at \$121,338.

There are no appropriations in the bill. The agency plans to absorb any additional costs.

*Payment for Mercury Switches:* The bill provides for a payment out of the SWMF to a motor vehicle recycler for each mercury switch removed. Payment must be at least \$1 and not more than \$5 as determined by the commissioner and to the extent that the commissioner makes money available from the SWMF for that purpose. The bill allows money to be redirected to the SWMF for that purpose from the IRPAF and the EMSF. As of Feb 22, 2006, the IRPAF had a balance of almost \$1.3 M; the EMSF had a balance of \$1.1 M; and the SWMF had a balance of \$607,177. The amount of expenditures that will be paid to recyclers is indeterminable and will be based on actions taken by the commissioner and on the number of recycled switches. The bill allows any person to contribute or assign assets to the SWMF to be used by IDEM to make payments for mercury switches.

*Rules.* The Solid Waste Management Board may adopt rules to implement the provisions of the bill. IDEM, which provides staff to the Board, should be able to adopt rules given its existing level of resources.

*Penalty Provisions.* Violations are subject to civil penalties. A person who obstructs, delays, resists, prevents, or interferes with IDEM personnel or designated agent in the performance of an inspection or investigation commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

A person who intentionally, knowingly, or recklessly violates environmental management laws, rules, standards adopted by one of the boards, or a determination issued by the commissioner commits a Class D felony. A person who is convicted of a Class D felony may, in addition to the term of imprisonment be punished by a fine of not less than \$5,000 and not more than \$50,000 per day of violation. If the conviction is for a violation committed after a first conviction, a fine of not more than \$100,000 per day of violation may be imposed. Other penalties could apply. Vehicles could be confiscated.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders

can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** The bill provides that the commissioner may direct the Treasurer of State to credit all or part of certain penalties collected for environmental violations that would have been deposited in the Environmental Management Special Fund to the SWMF. The remainder would be deposited in the EMSF. (See above for balances of the funds.)

*Penalty Provisions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** IDEM; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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